



Dated: April 01, 2010

The following is ORDERED:

BY THE COURT:

A blue ink signature of Terrence L. Michael, United States Bankruptcy Judge, is written over a horizontal line.

**TERRENCE L. MICHAEL
UNITED STATES BANKRUPTCY JUDGE**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA**

In re

MAHALO ENERGY (USA) INC.,
Tax ID No. XXXXX-5447,
Debtor.

Case No. 09-80795

Chapter 11

**FINDINGS OF FACT AND CONCLUSIONS OF LAW RE: CONFIRMATION OF
DEBTOR'S AMENDED PLAN OF REORGANIZATION (DATED DECEMBER 4, 2009),
AS AMENDED, AND RELATED SETTLEMENTS AND COMPROMISES**

Mahalo Energy (USA) Inc., a Delaware corporation ("Mahalo" or the "Debtor"), filed a petition for relief in this Court under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.* (as amended, the "Bankruptcy Code") on May 21, 2009 (the "Petition Date"). Since the Petition Date, the Debtor has managed its affairs and conducted its business as a debtor in possession, pursuant to Bankruptcy Code sections 1107(a) and 1108. No trustee or examiner has been appointed in the Debtor's chapter 11 case (the "Case"). On June 5, 2009, the United States

Trustee for the Eastern District of Oklahoma (the "U.S. Trustee") appointed the Official Committee of Unsecured Creditors of the Debtor (the "Committee") in this Case.

On October 16, 2009, the Debtor filed the "Debtor's Plan of Reorganization (Dated October 16, 2009)" [Docket No. 446] ("Original Plan") and the "Disclosure Statement With Respect to Debtor's Plan of Reorganization (Dated October 16, 2009)" [Docket No. 445] ("Original Disclosure Statement"). After the filing of the Original Plan and Original Disclosure Statement, the Debtor received certain objections thereto, both formal and informal. On December 4, 2009, the Debtor filed the "Debtor's Amended Plan of Reorganization (Dated December 4, 2009)" [Docket No. 568] (as modified and supplemented thereafter, the "Plan") and the "Disclosure Statement With Respect to Debtor's Plan of Reorganization (Dated December 4, 2009)" [Docket No. 567] (as modified and supplemented thereafter, the "Disclosure Statement").¹

Following notice to all creditors, the Court held a hearing on December 10, 2009 on the adequacy of the Disclosure Statement. At the hearing, the Debtor announced certain additional modifications that would be made to the Plan and Disclosure Statement and all of the objections to approval of the Disclosure Statement were withdrawn by the parties that had asserted them, with the exception of the contention of the Committee that the Disclosure Statement did not provide "adequate information" because it did not contain or describe a formal appraisal of the going concern value of the Debtor's enterprise. After receiving evidence on the matter and hearing oral argument, the Court overruled the Committee's objection and approved the Disclosure Statement, as modified. The Debtor subsequently filed marked copies of the Plan and Disclosure Statement indicating the modifications discussed at that hearing. See Docket Nos. 714 & 715.

On December 16, 2009, the Court entered its "Order Approving Disclosure Statement, Scheduling Hearing On Confirmation Of Debtor's Plan Of Reorganization, And Fixing Time For

¹ Unless otherwise defined herein, capitalized terms used herein are intended to have the same meaning ascribed to such terms in the Plan. A copy of the Plan is annexed as Exhibit 1 to the Confirmation Order filed concurrently herewith. Without limiting the generality of the foregoing statements, as used herein, "include" or "including" shall mean "include without limitation" or "including without limitation," as applicable.

Filing Of Ballots Accepting Or Rejecting Plan, And For The Filing Of Objections To Confirmation Of The Plan, Combined With Notice Thereof " [Docket No. 711] ("Disclosure Statement Order/Confirmation Hearing Notice").

Among other things, the Disclosure Statement Order/Confirmation Hearing Notice established (i) January 21, 2010, at 5:00 pm Central Time as the deadline for parties in interest to return ballots accepting or rejecting the Plan to the Ballot Tabulator ("Ballot Deadline"), (ii) January 21, 2010, at 5:00 pm Central Time as the deadline for parties in interest to object to confirmation of the Plan, by filing and serving a written objection thereto, (iii) January 25, 2010, at 5:00 p.m. Central Time as the deadline for the Ballot Tabulator to file a written report on the results of the balloting, (iv) January 26, 2010 at 11:00 a.m. Central Time as the date and time for an initial, non-evidentiary hearing and status conference on confirmation of the Plan, and (v) February 11, 2010 at 9:00 a.m. Central Time as the date and time of the evidentiary hearing on confirmation of the Plan.

On December 24, 2009, Omni Management Group, L.L.C. ("Omni") transmitted copies of the Disclosure Statement Order/Confirmation Hearing Notice and the Disclosure Statement (to which the Plan was attached as an exhibit) to all creditors and interest holders, and, with respect to the holders of Claims entitled to vote on the Plan, Omni transmitted ballots for accepting and rejecting the Plan to such holders ("Ballots") – all in accordance with the Disclosure Statement Order/Confirmation Hearing Notice, as reflected in the Declarations of Service executed by a representative of Omni and filed in the Case ("Solicitation Declarations"). [Docket Nos. 886 & 887].

On various dates between December 26, 2009 and January 7, 2010, the Debtor caused the entire text of the Disclosure Statement Order/Confirmation Hearing Notice to be published twice in each of the following publications: Tulsa World (Tulsa, Oklahoma), McAlester News-Capital (McAlester, Oklahoma), The Indian Journal (Eufala, Oklahoma), The Oklahoman (Oklahoma City, Oklahoma), Okemah News Leader (Okemah, Oklahoma), and Poteau Daily News (Poteau, Oklahoma). See Certificate of Publication [Docket No. 1005].

On January 6, 2010, the Debtor filed and served its "Notice of Schedule of Assumed Contracts and Leases and Schedule of Rejected Contracts and Leases Pursuant to the Debtor's Amended Plan of Reorganization (Dated December 4, 2009)" ("Contract and Lease Filing") [Docket Nos. 900 & 901] containing the Schedule of Assumed Contracts and Schedule of Rejected Contracts and constituting a part of the Plan. On February 1, 2010, the Debtor filed and served its "Notice of Amendments to Schedule of Assumed Contracts and Leases and Schedule of Rejected Contracts and Leases Pursuant to the Debtor's Amended Plan of Reorganization (Dated December 4, 2009)" ("Amendment to Contract and Lease Filing") [Docket Nos. 1030 & 1031], in which are described certain amendments to the Schedule of Assumed Contracts and Schedule of Rejected Contracts.

On January 15, 2010, the Debtor filed and served its "Notice of Filing Of Schedule Regarding Officers Of Mahalo Energy (USA) Inc. and Form of Liquidating Trust Agreement" [Docket Nos. 985 & 987], to which the documents referenced in the title of such document were attached, as contemplated by the Plan ("Debtor's Supplement"). On January 15, 2010, Ableco filed its "Notice of Filing Of: Schedule of New Board Members, Form of Amended Articles of Incorporation, Form of Amended Bylaws, Form of Wells Fargo Foothill Restated Credit Agreement, and Form of Restated Ableco Credit Agreement and Exit Financing In Respect of Debtor's Amended Plan of Reorganization (Dated December 4, 2009)" (the "Corporate Documents" and the "Corporate Documents Filing") [Docket Nos. 986 & 990].

Objections to confirmation of the Plan were filed by the following parties in interest: Exterran Energy Solutions, L.P. on January 21, 2010 [Docket No. 994], Black Stone Minerals Company, L.P. on January 21, 2010 [Docket No. 997], the U.S. Trustee on January 21, 2010 [Docket No. 998]; Williams Arkoma Gathering Company, LLC ("Williams Arkoma") and Williams Production Mid-Continent Company ("Williams Production") on January 21, 2010 [Docket No. 999]; Penn Virginia MC Energy, LLC, Penn Virginia MC Operating Company, LLC and Penn Virginia Oil & Gas Corporation (collectively, "Penn Virginia") on January 21, 2010 [Docket No.

1000]; Pacific Employers Insurance Company ("PEIC ") on January 21, 2010 [Docket No. 996]; Savanna Energy Services (USA) Corp. ("Savanna") and Trailblazer Drilling Corp ("Trailblazer") on January 25, 2010 [Docket No. 1008]; and the Committee on January 25, 2010 [Docket No. 1010] (collectively, the "Plan Objections").

On January 25, 2010, the Debtor filed the "Affidavit of Maribeth Mills, Ballot Tabulator, In Support Of Ballot Tabulation Summary" [Docket No. 1009] ("Ballot Tabulation") summarizing, among other things, the Claims entitled to vote to accept or reject the Plan, the acceptances and rejections of the Plan indicated on the Ballots actually received by the Ballot Tabulator, and the election or non-election of parties returning the Ballots to the Ballot Tabulator with respect to the Class 5 Opt-Out Election.

On January 26, 2010, the Court held a non-evidentiary hearing and status conference on confirmation of the Plan, at which the Court established a schedule for the exchange of expert reports in respect of Plan confirmation, set a schedule with respect to final briefing, and directed the parties to develop and agree, to the extent possible, to a set of stipulated facts for purposes of the evidentiary hearing on confirmation to being on February 11, 2010.

On January 28, 2010, the Court entered its orders [Docket Nos. 1027, 1028 & 1029] (the "Oil and Gas Orders") on certain "Omnibus Motion[s] To Assume and in Certain Instances To Assign, Oklahoma Oil and Gas Leases, Provided The Court Concludes that Such Interests Are Subject To Assumption And Assignment Under Bankruptcy Code Section 365, Or Alternative Relief, Combined with Legal Memorandum Thereon" numbered One through One Hundred Twenty-Two [Docket Nos. 588 through 664, 666 through 710, and 718 through 721] (the "Oil and Gas Motions"). Pursuant to the Oil and Gas Orders, the Court determined that the Debtor's oil and gas leases are not "unexpired leases" within the meaning of Bankruptcy Code section 365(a), not "unexpired leases of nonresidential real property" within the meaning of Bankruptcy Code section 365(d)(4), and not "executory contracts" within the meaning of Bankruptcy Code section

365(a). The Debtor's oil and gas leases therefore are not subject to assumption or rejection pursuant to Bankruptcy Code section 365.

On February 2, 2010, Exterran filed its "Notice of Withdrawal of Objection of Exterran Energy Solutions, L.P. f/k/a Hanover Compression Limited Partnership to Debtor's Proposed Amended Plan of Reorganization dated December 4, 2009 and to Proposed Cure Amounts for Executory Contracts" [Docket No. 1032]. The Court entered an order approving such withdrawal on February 3, 2010. [Docket No. 1033].

On February 4, 2010, the Debtor filed and served its Modification Of Debtor's Chapter 11 Plan Of Reorganization (Dated December 4, 2009) and Notice of Modification Of Debtor's Chapter 11 Plan Of Reorganization (Dated December 4, 2009) [Docket Nos. 1038, 1039, 1040, 1041] (collectively, the "Modification"). On February 4, 2010, Savanna And Trailblazer filed their "Objection By Savanna Energy Services (U.S.A.) Corp., And Trailblazer Drilling Corp., To Plan Amendment Filed On Or About February 4, 2010" (hereinafter included in the term "Plan Objections").

On February 5, 2010, replies and related pleadings in respect of the various Plan Objections were filed by the Debtor [Docket Nos. 1054, 1047, 1048, 1049 & 1050] and by Ableco [Docket Nos. 1046, 1050, 1051, 1053, 1054]. On February 6, 2010, the Debtor filed a correction to one of its replies [Docket No. 1056], and on February 7, 2010, Ableco filed a correction to one of its replies [Docket No. 1057].

On February 5, 2010, the "Stipulation Re Resolution Of Disputes Among Official Unsecured Creditors' Committee, Ableco Finance LLC, Wells Fargo Capital Finance, LLC, And The Debtor" ("Committee Stipulation") and notice thereof was filed with certain provisions relating to prospective litigation redacted [Docket No. 1044], setting forth the terms of a negotiated resolution and withdrawal of the Plan confirmation objections filed by the Committee, other than the question (the "Legal Question") of whether the Liens of the Secured Lenders' extended as of the Petition Date to the potential derivative claims that may be asserted on behalf of the Estate against

the Debtor's and the Parent's directors, officers, and certain counsel, as identified therein, arising from any act or omission occurring before the Petition Date, other than those related to the filing and prosecution of the Case (collectively, the "D&O Actions"). As for the D&O Actions, the Committee Stipulation set forth an agreement with respect to the possible modification of the Plan if the Court determined the Legal Question in favor of the Committee, which contended that the D&O Actions were not subject to such Liens as of the Petition Date.

On February 5, 2010, the parties to the Committee Stipulation also filed the "Joint Motion To File Certain Documents Under Seal Pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018, In Connection With The Plan Confirmation Hearing" ("Seal Motion") [Docket No. 1043], which was granted by order of the Court entered on February 8, 2010 [Docket No. 1059].

On February 9, 2010, the Debtor filed its "Notice Of Resolution Of Disputes With Williams Production Mid-Continent Company, Williams Arkoma Gathering Company LLC, And Penn Virginia Entities Re: Debtor's Amended Plan Of Reorganization (Dated December 4, 2009), Including Modifications Thereto" [Docket No. 1080] ("Joint Notice"), to which were attached two stipulations resolving and withdrawing the Plan confirmation objections of the referenced parties: (1) the "Stipulation Re Resolution Of Disputes Among Williams Production Mid-Continent Company And Williams Arkoma Gathering Company, LLC, Ableco Finance LLC, Wells Fargo Capital Finance, LLC, And The Debtor" [Docket No. 1086] ("Williams Stipulation") and (2) the "Stipulation Regarding Resolution Of Disputes Among Penn Virginia MC Operating Company, LLC, Penn Virginia MC Energy, LLC, And Penn Virginia Oil & Gas Corporation, Ableco Finance LLC, Wells Fargo Capital Finance, LLC, And The Debtor" [Docket No. 1084] ("Penn Virginia Stipulation").

On February 8, 2010, the Debtor filed the "Notice Of Global Resolution Of Plan Confirmation Objections Filed By And Other Matters Relating To Savanna Energy Services (U.S.A.) Corp. And Trailblazer Drilling Corp." [Docket No. 1063] ("Savanna/Trailblazer Stipulation") describing the terms of the resolution reached between and among the Debtor, Ableco,

Wells Fargo Capital Finance LLC, formerly known as Wells Fargo Foothill, LLC ("WFCF"), Savanna and Trailblazer in respect of objections to confirmation filed by Savanna and Trailblazer to confirmation of the Plan, and the withdrawal of those objections.

On February 9, 2010, the Debtor filed the "Stipulation Regarding Assumption Of Executory Contracts" between the Debtor, PEIC and Ableco ("PEIC Stipulation"). Pursuant to the PEIC Stipulation, PEIC withdrew its objections to confirmation of the Plan.

On February 10, 2010, the "Stipulation And Agreement Re: Claims And Administrative Expenses Of Black Stone" was filed [Docket No. 1090] ("Black Stone Stipulation"), to which the Debtor, Ableco, WFCF are parties, as well as Black Stone Natural Resources II-B, L.P., BSAP II, Inc., and Black Stone Minerals Company, L.P. (collectively, "Black Stone"). Pursuant to the Black Stone Stipulation, the Plan confirmation objections of Black Stone were withdrawn.

On February 10, 2010, the "Notice Re Stipulated Facts In Connection With Hearing On Confirmation Of Debtor's Amended Plan Of Reorganization (Dated December 4, 2009) And (B) Authenticity Of Documents In Connection Therewith" also was filed by the Debtor ("Stipulated Facts") [Docket No. 1087].

On February 11, 2010, the Court held its evidentiary hearing on confirmation of the Plan. As reflected in the record of the hearing, counsel were present and made appearances on behalf of the Debtor, the U.S. Trustee, the Committee, Ableco, WFCF, Williams Production, Williams Arkoma, Penn Virginia, Savanna, Trailblazer, and Black Stone. As of the commencement of the Confirmation Hearing, all objections to confirmation of the Plan had been withdrawn. At the hearing, the Court accepted and received into evidence the Stipulated Facts, certain documents numbered as Joint Trial Exhibits 1 through 165 ("Joint Trial Exhibits"), and certain offers of proof made by the Debtor and Ableco with respect to confirmation of the Plan. The Court also heard argument from counsel regarding the Legal Question. At the conclusion of the hearing, the Court took the matter of confirmation of the Plan as well as the Legal Question under advisement. The Court also established January 26, 2010 as the deadline for the filing of any objections to the

matters described in the Omnibus Notice (defined below) and tentatively scheduled a hearing for March 3, 2010 at 9:30 a.m. Central Time to consider any such objections.

On February 12, 2010, Ableco filed its "Application For Leave To File Submission Of Supplemental Authorities Regarding Legal Issue Of Whether The Secured Lenders' Liens Extend To Potential Derivative Claims Against Director And Officers." [Docket No. 1093]. On February 16, 2010, the Committee filed "The Unsecured Creditors' Committee's Response To Ableco's Submission Of Supplemental Authorities Regarding The Legal Issue Of Whether The Secured 'Lenders' Liens Extend To Potential Derivative Claims Against Directors and Officers" [Docket No. 1096]. On February 16, 2010, the Court entered a minute order [Docket No. 1097] granting the requests of both Ableco and the Committee to file supplemental authorities and ordered that no further briefing would be accepted. On February 16, 2010, pursuant to such minute order, Ableco filed its "Submission Of Supplemental Authorities Regarding Legal Issue Of Whether The Secured Lenders' Liens Extend To Potential Derivative Claims Against Director And Officers" [Docket No. 1098].

On February 16, 2010, the Debtor filed and served on all creditors, as well as the parties described as the subject of potential D&O Actions in the Committee Stipulation, the "Omnibus Notice Re Plan Modifications; Prospective Plan Modifications, Settlements And Compromises; Final Listing Of Class 5 Compromised O&G Mechanics/Materialmen Lien Claims And Class 6 Non-Compromised Lien/Trust Claims; Deadline For Any Objections With Respect Thereto; And Hearing On Any Such Objections" ("Omnibus Notice") [Docket No. 1095 & 1129]. As of the deadline set forth therein for the filing of objections, February 26, 2010, the Court had received no objections to the approval of the plan modifications, stipulations, settlements, compromises, lists or other matters described in the Omnibus Notice, or any additional objections to confirmation of the Plan as modified thereby.

On February 26, 2010, Scientific Drilling International, Inc. ("Scientific") filed with the Court a "General Notice of Ballot Amendment" [Docket No. 1164] ("Amendment Notice")

purporting to "opt out" of the Class 5 "Compromise O&G Mechanics/Materialmen Claim Treatment." On March 1, 2010, Ableco filed its "Response" to the "Amended Notice".

On March 1, 2010, Ableco filed and served its "Report with Respect to Mechanics and Materialmen Lien Claims of Class 5 Compromise Creditors, and Affidavit in Support Thereof" [Docket No. 1165] (the "Lien Affidavit") setting forth the factual basis for the list of Liens attached as an Exhibit thereto, which is attached as Exhibit 4 to the Confirmation Order.

On March 1, 2010, in the absence of any objection, the Court struck the March 3rd hearing previously scheduled to consider any objections to the matters described in the Omnibus Notice, as provided therein. See Docket No. 1167.

On March 3, 2010, the Court held a telephonic hearing to announce its ruling on the Legal Question (the "Oral Ruling"). As set forth in detail in its findings of fact and conclusions of law stated on the record of that hearing, the Court found in favor of the Committee, *i.e.*, concluding that as of the Petition Date, the D&O Actions were not subject to the liens and security interests of the Secured Lenders and that confirmation of the Plan would require the Plan amendments contemplated by the Committee Stipulation.

Thereafter, on March 3 and 4, 2010, the Debtor filed and served the "Notice Regarding Additional Modifications To Debtor's Amended Plan Of Reorganization (Dated December 4, 2009) Following Court Ruling On Remaining Disputed Legal Issue" [Docket Nos. 1181 & 1186] ("Supplemental Modification Notice"). Among other things, the Supplemental Modification Notice advised recipients thereof of the modifications being made to the Plan in accordance with the Oral Ruling and the Committee Stipulation, and advised that the Committee had filed a revised form of Liquidating Trust Agreement at Docket No. 1168. The Supplemental Modification Notice set forth a deadline of March 18, 2010 for parties in interest to object to any of the matters set forth therein, and advised that if any objection was timely filed the Court would hold a hearing to consider the objection on March 23, 2010, at 1:30 pm. No such objection was filed.

In support of confirmation of the Plan, the Debtor and other parties have presented the Disclosure Statement, the Solicitation Declaration, the Ballot Tabulation, the Plan Objections, the stipulations and other pleadings withdrawing such objections, the Lien Affidavit, all other pleadings referenced above, and the certificates, declarations and affidavits of service with respect thereto, various stipulations of fact, and the evidence and arguments proffered at the Confirmation Hearing. Based thereon, after due deliberation and good cause appearing therefore, and after having delivered the Oral Ruling, the Court makes the following Findings of Fact and Conclusions of Law regarding confirmation of the Plan.

These Findings of Fact and Conclusions of Law constitute the Bankruptcy Court's findings of fact and conclusions of law under Federal Rule of Civil Procedure 52, made applicable by Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") 7052 and 9014. Any and all findings of fact shall constitute findings of fact even if they are stated as conclusions of law, and any and all conclusions of law shall constitute conclusions of law even if they are stated as findings of fact.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Jurisdiction and Venue. The Court has subject matter jurisdiction to confirm the Plan pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan is a core proceeding under 28 U.S.C. § 157(b)(A), (L), and (O). The Debtor is a duly organized and existing for-profit corporation under the laws of the State of Delaware, is in good standing thereunder, and is qualified to be a chapter 11 debtor under Bankruptcy Code section 109.

2. Burden of Proof. The Debtor, as proponent of the Plan, has the burden of proving the elements of section 1129(a) of the Bankruptcy Code by a preponderance of the evidence, and, as set forth below, the Debtor has met that burden.

3. The Record. The following is the record (the "Record") in support of confirmation of the Plan (the Court hereby taking judicial notice of the documents reflected in the docket in this case):

- a. All of the documents comprising the Joint Trial Exhibits, which were admitted into evidence at the Confirmation Hearing on February 11, 2010;
- b. All of the testimony proffered, which was accepted without objection at the Confirmation Hearing on February 11, 2010;
- c. The Stipulated Facts, which were accepted without objection at the Confirmation Hearing on February 11, 2010 and are incorporated herein by this reference;
- d. All of the pleadings referenced hereinabove; and
- e. All of the evidence and arguments made, proffered or adduced at the hearings held before the Court to consider the adequacy of the Disclosure Statement and at the Confirmation Hearing.

The Record supports confirmation of the Plan by a preponderance of the evidence.

- 4. Record Closed. The Record in respect of the Confirmation Hearing is closed.
- 5. Solicitation and Notice. To obtain the requisite acceptance of the Plan, on December 24, 2009, the Debtor, with the assistance of Omni, solicited acceptances and rejections of the Plan by distributing the Disclosure Statement and related material to the holders of Claims against the Debtor that are classified in impaired Classes entitled to vote under the Plan.

- a. As evidenced by the Solicitation Declarations, and in compliance with the requirements of the Disclosure Statement Order/Confirmation Hearing Notice, the Bankruptcy Code and the Bankruptcy Rules, on December 24, 2009, the Debtor transmitted to known holders of Claims against the Debtor that are entitled to vote under the Plan: (a) the Disclosure Statement (including the Plan); (b) the Disclosure Statement Order/Confirmation Hearing Notice; and (c) an appropriate ballot for such holders to

accept or reject the Plan, and to make the possible elections contemplated by the Plan, where applicable (collectively, the "Solicitation Packages").

b. The Solicitation Packages were distributed to holders of Claims in the following Classes: Class 2 (Wells Fargo Foothill), Class 3 (Ableco), Class 4 (Williams), Class 5 (Compromised O&G Mechanics/Materialmen Claims), Class 6 (Non-Compromised Lien/Trust Claims), Class 9 (General Unsecured Claims), and Class 10 (Small Claims). Solicitation Packages were not distributed to the holders of Claims in Class 7 (Secured Tax Claims) or Class 8 (Non-Priority Tax Claims) because no such Claims were scheduled or filed in the Case.

c. The Debtor also transmitted to known holders of Claims and Interests in Classes that were not entitled to vote to accept or reject the Plan, parties to executory contracts and unexpired leases to which the Debtor is a party, lessors under oil and gas leases under which the Debtor is lessee, the U.S. Trustee, the United States Securities and Exchange Commission, the Internal Revenue Service and parties that had filed requests for notice of the papers filed in the Case: (a) the Disclosure Statement (including the Plan) and (b) the Disclosure Statement Order/Confirmation Hearing Notice.

d. As indicated in the Certificate of Publication, the Debtor provided notice to unknown claimants by way of publication of the Disclosure Statement Order/Confirmation Hearing Notice twice in each of the following publications: Tulsa World (Tulsa, Oklahoma), McAlester News-Capital (McAlester, Oklahoma), The Indian Journal (Eufala, Oklahoma), The Oklahoman (Oklahoma City, Oklahoma), Okemah News Leader (Okemah, Oklahoma), and Poteau Daily News (Poteau, Oklahoma). Such publication is adequate to satisfy the requirements of due process and provide sufficient notice of the matters set forth therein to claimants unknown to the Debtor or as to which the address of such claimants was unknown.

e. The Debtor complied with the Disclosure Statement Order/Confirmation Hearing Notice, the Bankruptcy Code, the Bankruptcy Rules and all other applicable laws in connection with the solicitation of Ballots on the Plan and the provision of notice of (i) the hearing to consider confirmation of the Plan, (ii) the deadline for filing and serving objections to confirmation and for voting on the Plan, and (iii) all other relevant deadlines related to the Plan. As such, the notice provided was due and proper with respect to all matters relating to the solicitation of votes on, and the confirmation of, the Plan, and satisfied the requirements of due process with respect to all creditors, equity holders and parties in interest that were provided actual or constructive notice.

6. Voting. The Ballot Tabulation demonstrates the results of the voting to accept or reject the Plan by the holders of Claims that were entitled to do so and that timely returned their Ballots to the Ballot Tabulator. With the exception of certain "Subclasses" of Class 5 and Class 6, and of Classes 11 and 12, which are deemed to reject, all Classes accepted the Plan for purposes of Bankruptcy Code section 1126.

a. Class 2 (Secured Claims of Wells Fargo Foothill), Class 3 (Claims of Ableco), certain Subclasses of Class 5 (Compromised O&G Mechanics/Materialmen Claims), Class 9 (General Unsecured Claims), and Class 10 (Small Claims) all voted as a Class to accept the Plan.

b. Class 1 are not impaired pursuant to Bankruptcy Code section 1124 and Ballots accepting or rejecting the Plan were not solicited from the holders of Claims in Class 1. Class 1 is deemed to accept the Plan under Bankruptcy Code section 1126(f).

c. Class 4 originally voted to reject the Plan. Pursuant to the Williams Stipulation, however, the holders of the Class 4 Claims changed their rejection of the Plan to an acceptance of the Plan.

d. Certain holders of Class 5 Claims and Class 6 Claims did not return their Ballots or object to confirmation of the Plan: Arkoma Machine and Fishing Tools, BICO

Drilling Tools Inc, Big Mac Tank Trucks LLC, Blake Drilling Fluids Inc., Bumpers Construction and Trucking Co Inc., Bynum and Company, Drumright Oilwell Service LLC, Graco Fishing and Rental Tools, Graco Oilfield Services, Halliburton Energy Serv. Inc, Horizon Well Logging LLC, Littlefield Oil Co, MCGR Operating Company Inc., MP Enterprise LLC, Plaster and Wald Consulting Corp., Precision Impact Recovery LLC, River Valley Oilfield, Sierra Engineering. Each of the Subclasses comprising the Claims held by these parties is deemed to accept the Plan.

e. The Class 6 Subclass comprising the Claims of Penn Virginia originally rejected the Plan. Pursuant to the Penn Virginia Stipulation, however, Penn Virginia changed its rejection of the Plan to an acceptance of the Plan.

f. No Ballot was received from any holder of a Class 7 or Class 8 Claim.

g. The Claims and Interests in Classes 11 and 12, respectively, will neither receive nor retain property under the Plan. Such Classes are therefore deemed to reject the Plan under Bankruptcy Code section 1126(g).

7. Standing. The Debtor has satisfied section 1121 of the Bankruptcy Code in that the Debtor has standing to file a plan. Furthermore, the Plan reflects the date it was filed with the Bankruptcy Court and identifies the entity submitting it as Plan proponent, thereby satisfying Bankruptcy Rule 3016(a).

8. Omnibus Notice and Supplemental Modification Notice. The Omnibus Notice and the Supplemental Modification Notice provided reasonable and adequate notice of the Plan modifications, resolutions, settlements, compromises, lists, and other matters set forth therein under the circumstances. The deadlines set forth in the Omnibus Notice and Supplemental Modification Notice for the filing of objections to the matters set forth in the Omnibus Notice Supplemental Modification Notice were adequate and are binding.

9. Compromises, Settlements, and Resolution of Objections. As presented at the Confirmation Hearing, and as provided for herein, the consensual resolutions of the Plan

Objections, and all of the other compromises and settlements embodied in the Plan or entered into in connection with the Plan, satisfy the applicable requirements of the Bankruptcy Code, the Bankruptcy Rules and applicable law; are reasonable, appropriate, and in the best interests of the Debtor and its Estate, taking into account the probable success of the underlying litigation on the merits, the possible difficulty in collection of a judgment, the complexity and expense of the litigation, and the interests of creditors in deference to their reasonable views; are supported by the Record; and therefore should be approved. The aforementioned resolutions, compromises and settlements include the following: the Committee Stipulation, the Williams Stipulation, the Penn Virginia Stipulation, the Savanna/Trailblazer Stipulation, the PEIC Stipulation, the Black Stone Stipulation, and the treatment under the Plan of the Claims of Wells Fargo Foothill, the Claims of Ableco, the Williams Claims, the Compromise O&G Mechanics/Materialmen Claim Treatment, and General Unsecured Claims. Notice of such compromises, settlements and resolutions was reasonable and appropriate under the circumstances. Parties in interest have had a reasonable opportunity to object to such compromises, settlements and resolutions and have not done so. It therefore is appropriate that such compromises, settlements and resolutions be approved and become binding on all parties.

10. Plan Modifications. The modifications (the "Plan Modifications") made to the Plan meet the requirements of Bankruptcy Code section 1127 (including complying with Bankruptcy Code sections 1122, 1123 and 1125) and Bankruptcy Rule 3019(a). The Plan Modifications include the modifications effectuated or contemplated by the following: the Modification, the Committee Stipulation, the Williams Stipulation, the Penn Virginia Stipulation, the Savanna/Trailblazer Stipulation, the PEIC Stipulation, the Black Stone Stipulation, and the Oral Ruling. The Plan Modifications do not adversely affect any holder of a Claim or Interest that did not agree to such modifications. Further, the holders of all Claims and Interests have been provided adequate notice of these modifications pursuant to the Omnibus Notice and the Supplemental Modification Notice, an opportunity to object, and an opportunity to be heard. No such holder timely filed an objection.

All holders of Claims that voted to accept the Plan are deemed to accept the Plan as modified by the Plan Modifications, and that the Plan Modifications should be approved as part of the Plan, without further notice or disclosure.

11. Class 5 Compromised O&G Mechanics/Materialmen Claims. The Claims held by each of the following entities are Compromised O&G Mechanics/Materialmen Claims, the holders of such Claims are bound by all of the terms of the compromise treatment set forth in Class 5 because such holders were listed on Exhibit C to the Plan as such and because they did not timely exercise the Class 5 Opt-Out Election Under the Plan:

Arkoma Machine and Fishing Tools	Arrow Pump and Supply Inc	Avatar Energy LLC
BICO Drilling Tools Inc	Big Mac Tank Trucks LLC	Blake Construction Company Inc
Blake Drilling Fluids Inc	Blake Trucking LLC	Bumpers Construction and Trucking Co Inc.
Bynum and Company	Cimarron Services Inc	Drumright Oilwell Service LLC
Graco Fishing and Rental Tools	Graco Oilfield Services	Halliburton Energy Serv Inc
Horizon Well Logging LLC	Hunter Steel LLC	Littlefield Oil Co
MCGR Operating Company Inc	MP Enterprise LLC	Plaster and Wald Consulting Corp
Precision Impact Recovery LLC	River Valley Oilfield	Savanna Drilling LLC*
Trailblazer Drilling Corp*	Sierra Engineering	Team Packer Service and Team Oil Tools

Such holders received reasonable and adequate notice that they would be bound by the terms of the compromise treatment in Class 5 absent a timely written election to exercise the Class 5 Opt-Out Election, by explicit terms of the following documents that previously have been served on them: the Plan, the Disclosure Statement, the Disclosure Statement Order/Confirmation Hearing Notice, the Class 5 Ballot, and the Omnibus Notice. No such holder filed an objection to confirmation of

* As modified by the Savanna/Trailblazer Stipulation.

the Plan that has not been resolved and withdrawn, or an objection to the matters set forth in the Omnibus Notice. The foregoing holders of Class 5 Claims will receive a certain "Distribution Amount" specified on Exhibit C to the Plan in full and complete satisfaction of all of such holders Claims, and all liens and security interests that such holder may hold or assert in respect of such Claims should be extinguished and expunged on the Effective Date, including the Liens listed on Exhibit 4 to the Confirmation Order. By its terms, the foregoing provides only for the release of Claims (*i.e.*, rights against the Debtor or interests of the Debtor); nevertheless, for avoidance of any doubt, notwithstanding any provision of the Plan or this Order, the foregoing shall not effect a release or expungement of any Lien against any non-Debtor or any interest in property of a non-Debtor.

12. Pursuant to the original proof of claim filed by Baker Hughes Oilfield Operations, Inc. d/b/a Baker Oil Tools ("Baker Hughes") on October 1, 2009, it asserted a secured claim in the amount of \$68,510.98. (ECF Claims Register No. 138-1). On February 24, 2010, Baker Hughes filed an amended proof of claim (ECF Claims Register No. 138-2) asserting only a General Unsecured Claim of \$68,510.98. As a result, Baker Hughes has waived any Secured Claim that it otherwise asserted against the Debtor or the Estate and is not entitled to any distribution under Class 5 of the Plan. The only Claim Baker Hughes now holds is a General Unsecured Claim, which is classified and shall be treated under Class 9 of the Plan. Any and all liens filed by Baker Hughes against the Debtor on account of any Claims should be extinguished and expunged on the Effective Date, including Lien No. L-115-09 filed in McIntosh County, Oklahoma.

13. Neither the Amendment Notice, nor the "amended" ballot that is attached thereto and that was transmitted to the Ballot Tabulator, are effective to make the "Class 5 Opt-Out Election" with respect to Scientific. However, Scientific has waived any Secured Claim against the Debtor or the Estate, and waived any entitlement to treatment pursuant to Class 5 of the Plan, such a waiver would be appropriate. The only Claims Scientific now holds are General Unsecured Claims, which are classified and shall be treated under Class 9 of the Plan. Any and all liens filed by Scientific

against the Debtor on account of any Claims should be extinguished and expunged on the Effective Date, including Lien Nos. 209000 and 209006 in LeFlore, County, and Lien Nos. L-23-09, L-55-09, L-71-09 through L-72-09, and L-79-09 through L-87-09 McIntosh, County.

14. Class 6 Non-Compromised Lien/Trust Claims. The Claims held by each of the following entities are Class 6 Non-Compromised Lien/Trust Claims under the Plan. With the exception of the one noted holder that was not listed on Exhibit C to the Plan, all of the following entities hold Class 6 Claims because they timely exercised the Class 5 Opt-Out Election:

Cudd Pressure Control

Penn Virginia MC Energy LLC, Penn Virginia MC Operating Company, LLC, Penn Virginia Oil and Gas Corporation

Thru Tubing Solutions Inc

Weatherford US LP/Weatherford International

Yale Oil Association Inc

Each of the entities identified in the foregoing table will be treated pursuant to the terms of the treatment described for Class 6 Claims under the Plan, except for Penn Virginia MC Energy LLC, Penn Virginia MC Operating Company, LLC, Penn Virginia Oil and Gas Corporation, which will be treated pursuant to the Penn Virginia Stipulation.

15. Waiver of Secured Claim. In the event the holder of any Class 5 or Class 6 Claim other than Baker Hughes or Scientific wishes (before the Distribution Date) to waive its Secured Claim against the Debtor or the Estate, and, in the case of a Class 5 Claim, waive any entitlement to treatment pursuant to Class 5 of the Plan, such a waiver would be appropriate. In the event such a holder were to make such a waiver, its Claims would be treated only under Class 9 of the Plan.

16. The Plan Complies with the Bankruptcy Code (Section 1129(a)(1)). The Plan complies with all relevant sections of the Bankruptcy Code, Bankruptcy Rules, and applicable law relating to the confirmation of the Plan, including all of the other provisions of Bankruptcy Code section 1129.

a. Proper Classification (Sections 1122 and 1123(a)(1)). The Plan complies with the requirements of sections 1122 and 1123 of the Bankruptcy Code. The Plan's classification of Claims and Interests conforms to these statutes. The Claims and Interests within each Class or Subclass are substantially similar to each other for purposes of Bankruptcy Code section 1122(a). The separate classification of the Unsecured Claims in Class 10 (Small Claims) has been effectuated for administrative convenience and is appropriate under Bankruptcy Code section 1122(b). The separate classification of each Claim in Class 5 and Class 6 as its own Subclass also is appropriate. Section II.C. of the Plan designates the Classes of Claims and Interests that must be classified under the Bankruptcy Code.

b. Specified Unimpaired Classes (Section 1123(a)(2)). The Plan complies with the requirements of Bankruptcy Code section 1123(a)(2). Section II.C of the Plan specifies which classes of Claims are not impaired under the Plan.

c. Treatment of Impaired Classes (Section 1123(a)(3)). The Plan complies with the requirements of Bankruptcy Code section 1123(a)(3). Section II.C. of the Plan specifies the treatment of classes and interests under the Plan, including those which are impaired.

d. No Discrimination (Section 1123(a)(4)). The Plan complies with the requirements of Bankruptcy Code section 1123(a)(4). As reflected in Section II.C of the Plan, the treatment of each of the Claims and Interests in each particular class is the same as the treatment of each of the other Claims or Equity Interests in such class, except to the extent the holder of any particular Claim or Interest has agreed to a different treatment.

e. Implementation of Plan (Section 1123(a)(5)). The Plan complies with the requirements of Bankruptcy Code section 1123(a)(5). The Plan provides adequate means for implementation of the Plan through, among other things, entry into the Wells

Fargo Foothill Restated Credit Documents, the Restated Ableco Credit Documents, the Exit Financing Documents, the various settlements and compromises implemented under the Plan, including the settlement and compromise of the Williams Claims and the Compromised O&G Mechanics/Materialmen Claims, and the vesting of property of the Debtor in the Reorganized Debtor and in the Liquidating Trust. The financings to be implemented under the Wells Fargo Foothill Restated Credit Documents, the Restated Ableco Credit Documents and the Exit Financing Documents have been negotiated and agreed to in good faith.

f. Nonvoting Equity Securities (Section 1123(a)(6)). The Plan complies with the requirements of Bankruptcy Code section 1123(a)(6), because the Plan requires the charter documents of the Reorganized Debtor to include a provision with respect to nonvoting equity securities as required by section 1123(a)(6).

g. Designation of Directors and Officers (Section 1123(a)(7)). The requirements of section 1123(a)(7) of the Bankruptcy Code have been satisfied with respect to the selection of the officers and directors of the Reorganized Debtor and the selection of the Liquidating Trustee, all of which have been disclosed.

h. Section 1123(a)(8) Inapplicable. Section 1123(a)(8) of the Bankruptcy Code is inapplicable because the Debtor is not an individual.

i. Additional Plan Provisions (Section 1123(b)). The Plan's provisions are appropriate and consistent with the provisions of the Bankruptcy Code.

17. Compliance with the Bankruptcy Code (Section 1129(a)(2)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(2). Pursuant to Bankruptcy Code section 1129(a)(2), the Debtor has complied with the applicable provisions of title 11, including, specifically, Bankruptcy Code sections 1125 and 1126, the Bankruptcy Rules and the Disclosure Statement Order/Confirmation Hearing Notice, governing notice, disclosure and solicitation in

connection with the Plan, the Disclosure Statement, and all other matters considered by the Bankruptcy Court in connection with this Case.

18. Plan Proposed in Good Faith (Section 1129(a)(3)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(3). The Plan was proposed in good faith and not by any means forbidden by law. The Plan is consistent with the rehabilitative and reorganizational goals of the Bankruptcy Code by restructuring the Debtor's obligations and providing the means through which the Debtor may continue to operate as a viable enterprise. Attendant to the continued operation of the enterprise is the ability of the Debtor to preserve jobs and continue business operations. The Debtor, Ableco, WFCF, and all of their respective members, officers, directors, agents, financial advisers, attorneys, employees, partners, affiliates, and representatives have acted in good faith in connection with the negotiation and implementation of the Plan. The Plan is the result of extensive arm's-length discussions and negotiations among the Debtor, Ableco, WFCF, the Committee and key stakeholders, undertaken in good faith, and is overwhelmingly supported by the creditors and other parties in interest in this Case. The Plan promotes the rehabilitative objectives and purposes of the Bankruptcy Code.

19. Payment for Services or Costs and Expenses (Section 1129(a)(4)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(4). Section II.B.1(C) of the Plan provides that unpaid Professional Fee Claims shall be paid only following the timely filing of an application by the holder thereof within 60 days of the Effective Date, and the entry of a Final Order approving such Professional Fee Claim.

20. Directors, Officers and Insiders (Section 1129(a)(5)). The requirements of Bankruptcy Code section 1129(a)(5) with respect to disclosure regarding the officers and directors of the Reorganized Debtor and the Liquidating Trustee have been satisfied.

21. No Rate Changes (Section 1129(a)(6)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(6). The Debtor is not subject to the jurisdiction of any regulatory

agency with authority over any rates charged by the Debtor, and no rate changes are proposed or implemented pursuant to the Plan.

22. Best Interests of Creditors (Section 1129(a)(7)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(7). The "best interests" test under section 1129(a)(7) is satisfied as to each and every hold of a Claim or Interest that has not accepted the Plan. The Plan permits the value of the Debtor's business to be maximized and allows for payments to the holders of Allowed Claims that are of a value, as of the effective date of the Plan, that are not less than the amount that such holders would receive or retain if the Debtor were liquidated under chapter 7 of title 11 on such date. A liquidation under chapter 7 would adversely affect the ultimate proceeds available for distribution to all holders of Allowed Claims in the Case. Liquidation under chapter 7 would result in smaller distributions being made to creditors than those provided for under the Plan. A chapter 7 liquidation would result in no distribution to the holders of Subordinated Claims or Interests. Accordingly, the treatment of these Claims and Interests under the Plan (as to which no distribution will be made) does not result in the holders of such Claims and Interests receiving less under the Plan than they would realize in a chapter 7 liquidation.

23. Acceptance by Impaired Classes (Section 1129(a)(8))/Cramdown (Section 1129(b)). All Classes, other than certain Subclasses of Class 5, certain Subclasses of Class 6, Class 11, and Class 12, have either accepted the Plan or are not impaired.

a. Certain holders of Class 5 Compromised O&G Mechanics and Materialmen Claims returned Ballots rejecting the Plan, but did not exercise the Class 5 Opt-Out Election. Based upon the totality of circumstances, including the extensive notice provided, the opportunities provided either to make the Class 5 Opt-Out Election or to object to confirmation of the Plan and implementation of the compromise treatment with respect to their claims, such compromise treatment of such Claims is fair and equitable under the circumstances and that the requirements of Bankruptcy Code section 1129(b) are satisfied with respect to such Claims.

b. Certain holders of Class 6 Non-Compromised Lien/Trust Claims returned Ballots rejecting the Plan. The treatment accorded Class 6 Claims is fair and equitable under the circumstances and that the requirements of Bankruptcy Code section 1129(b) are satisfied with respect to such Claims. In the event any of the Class 6 Claims is determined to be an Allowed Secured Claim secured by Liens that are senior in priority to the Liens of the Secured Lenders, the Plan provides that the holder of such Claim will retain its existing Liens (with the exception of any liens on Suspense Funds) and will receive on account of such Allowed Secured Claim deferred cash payments totaling at least the allowed amount of such claim, of a value, as of the Effective Date, of at least the value of such holder's interest in the estate's interest in such property for purposes of Bankruptcy Code section 1129(b)(2)(A)(i). The Additional Lien granted under the Plan to the holder of such an Allowed Secured Claim actually will enhance and improve the value and quality of such holder's secured position pending payment. The Additional Lien will provide those holders who hold Allowed Secured Claims secured by Suspense Funds the "indubitable equivalent" of such Claims within the meaning of Bankruptcy Code section 1129(b)(2)(A)(iii) and, accordingly, it is appropriate to release any Liens against the Suspense Funds and for the holders of the Suspense Funds to remit such funds to the Reorganized Debtor.

c. Class 11 is deemed to reject the Plan because it provides that the holder of any Class 11 Claim will neither receive nor retain any property under the Plan. (The Debtor is not aware of any such Class 11 Claim). Nevertheless, if such a Claim did exist, the proposed treatment under the Plan is appropriate because it satisfies the "absolute priority rule" embodied in Bankruptcy Code section 1129(b)(2)(B) in that no Class that is junior to Class 11 will receive or retain any property under the Plan.

d. Class 12 is deemed to reject the Plan because it provides that the holders of the Class 12 Interests will neither receive nor retain any property under the Plan. This

treatment satisfies the "absolute priority rule" embodied in Bankruptcy Code section 1129(b)(2)(C) in that no Class that is junior to Class 12 will receive or retain any property under the Plan.

24. Treatment of Allowed Administrative Claims under Section 507(a)(2) and Gap Claims 507(a)(3) (Section 1129(a)(9)(A)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(9)(A). Consistent with Bankruptcy Code section 1129(a)(9)(A), Section II.B.1 of the Plan provides, subject to the specific requirements set forth therein with respect to different types of Administrative Claims arising under Bankruptcy Code section 507(a)(2), that each holder of an Administrative Claim will be paid in full on the later of the Distribution Date, the date upon which the Administrative Claim comes due in accordance with its terms, or shortly after the Administrative Claim becomes Allowed Administrative Claim. These provisions satisfy Bankruptcy Code section 1129(a)(9)(A). The Plan does not provide for the treatment of any claims under Bankruptcy Code section 507(a)(3), incurred during the "gap" period following an involuntary petition, as no such petition was filed in this case and no such claims could have been incurred.

25. Treatment of Non-Tax Priority Claims Under Sections 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6) and 507(a)(7) (Section 1129(a)(9)(B)). None of the types of Claims referenced in Bankruptcy Code section 1129(a)(9)(B) were filed in the Case. Accordingly, no Ballots were received from parties holding such Claims. Nevertheless, Bankruptcy Code section 1129(a)(9)(B) is satisfied because the Plan provides under Section II.C.8 that such Claims, at the election of the Reorganized Debtor, will be (i) reinstated and paid when the Allowed Priority Claim first becomes due and payable in accordance with its terms, (ii) paid in cash in the allowed amount of such Allowed Priority Claim, or paid in deferred cash payments, (iii) paid in deferred payments having a present value equal to such Allowed Priority Claim as of the Effective Date, as more specifically set forth in such provisions.

26. Treatment of Priority Tax Claims Under Section 507(a)(8) (Section 1129(a)(9)(C)).

The Plan complies with Bankruptcy Code section 1129(a)(9)(C). Bankruptcy Code section 1129(a)(9)(C) is satisfied because the Plan provides under Section II.B.2 that Priority Tax Claims, at the election of the Reorganized Debtor, will be (i) reinstated and paid when the Allowed Priority Claim first becomes due and payable in accordance with its terms, (ii) paid in cash in the allowed amount of such Allowed Priority Claim, (iii) paid in deferred payments having a present value equal to such Allowed Priority Claim as of the Effective Date, as more specifically set forth in such provisions, and (iv) to the extent being paid in deferred payments, paid over a period ending not later than 5 years after the date of the order for relief (i.e., the Petition Date). This treatment is no less favorable than the most favored nonpriority unsecured claim provided for under the Plan (other than cash payments to the holders of Class 10 Claims).

27. Acceptance by Impaired Classes (Section 1129(a)(10)). The Plan complies with the requirement of Bankruptcy Code section 1129(a)(10) that at least one Class of impaired Claims accept the Plan.

28. Feasibility (Section 1129(a)(11)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(11). The Debtor has demonstrated a reasonable probability that the Reorganized Debtor will have sufficient means to meet all of its obligations under the Plan. The Record establishes that the Reorganized Debtor will emerge from bankruptcy as a viable, financially healthy business enterprise, with substantially less debt, and unlikely to be in need of further financial reorganization. The Plan satisfies the feasibility standard of section 1129(a)(11).

29. Payment of Fees (Section 1129(a)(12)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(12). Section II.B.1.a provides for the payment of all statutory fees by the Debtor as of the Effective Date of the Plan.

30. Continuation of Retiree Benefits (Section 1129(a)(13)). The Plan complies with the requirements of Bankruptcy Code section 1129(a)(13), to the extent applicable. The Debtor does not maintain any retiree benefits as that term is defined in Bankruptcy Code section 1114 and,

therefore, that there are no such benefits to continue in order to satisfy Bankruptcy Code section 1129(a)(13).

31. Sections 1129(a)(14)-(16) of the Bankruptcy Code. Bankruptcy Code sections 1129(a)(14)-(16) are inapplicable as the Debtor (i) has no domestic support obligations (1129(a)(14)), (ii) is not an individual (1129(a)(15)), and (iii) is a for-profit businesses (1129(a)(16)).

32. Principal Purpose of the Plan (Section 1129(d)). The Plan complies with the requirements of Bankruptcy Code section 1129(d). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Article 5 of the Securities Act of 1933.

33. Satisfaction of Confirmation Requirements. The Plan satisfies all of the requirements for confirmation set forth in Bankruptcy Code section 1129 and should be confirmed.

34. Representatives Re: Claims and Causes of Action. (a) the vesting of the Retained Actions in the Reorganized Debtor, the granting of standing to the Reorganized Debtor to prosecute the Retained Actions, and the granting of standing to the Reorganized Debtor to prosecute any objections to Claims (other than General Unsecured Claims) is reasonable and appropriate; and (b) the vesting of the Designated Avoidance Actions in the Liquidating Trust, the granting of standing to the Liquidating Trustee to prosecute the Designated Avoidance Actions, and the granting of standing to the Liquidating Trustee to prosecute objections to General Unsecured Claims is reasonable and appropriate.

35. Good Faith Solicitation Section 1125(e). The Debtor, the Committee, Ableco, and WFCF, their respective attorneys, accountants, investment bankers, restructuring consultants, other consultants, financial advisors, and the respective officers, directors, members, representatives, agents, employees, or any other person acting or purporting to act on their behalf, whether in the past or currently, have acted in "good faith" within the meaning of Bankruptcy Code section 1125(e) and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to the formulation, negotiation,

preparation, dissemination, implementation, administration, confirmation or consummation of the plan, or any other contract, instrument, release or other agreement or document created or entered into in connection with the plan or any other act taken or omitted to be taken in connection with or in contemplation of the restructuring of the debtor.

36. The Debtor's Supplement and Corporate Document Filing. The Debtor's Supplement and Corporate Document Filing comply with the terms of the Plan and the filing and notice of the documents contained therein was good and proper, in accordance with the Bankruptcy Code and Bankruptcy Rules, and no further notices is or shall be required.

37. Plan Documents. The Corporate Documents and all other documents related thereto, contemplated thereby or reasonably necessary to implement such Corporate Documents (all as they may be amended, supplemented, or modified, the "Plan Documents") are necessary and appropriate to effectuate the Plan. The Debtor and Reorganized Debtor have all of the requisite legal authority, by virtue of the Confirmation Order and otherwise, to enter into the Plan Documents and incur the obligations set forth therein, including incurring the indebtedness and granting of the liens contemplated thereby. The execution and delivery by the Debtor and/or Reorganized Debtor and the performance by the Debtor and/or Reorganized Debtor of its obligations under the Plan Documents do not and will not under existing law, contravene any provision of the Debtor's organizational documents or any law, rule or regulation to which the Debtor or its assets are subject. The execution and delivery of the Plan Documents by the Debtor and/or Reorganized Debtor will create valid and fully enforceable obligations against the Reorganized Debtor and its assets, pursuant to the terms of such Plan Documents. The Debtor and/or Reorganized Debtor is authorized, subject to the consent of the other parties to such agreements and the terms thereof, to amend, supplement, or modify the Plan Documents, including the Wells Fargo Foothill Restated Credit Documents, the Restated Ableco Credit Documents and the Exit Financing Documents, in a manner that is consistent with the Plan.

38. Transfer Taxes. By virtue of Bankruptcy Code section 1146(a), and notwithstanding any applicable nonbankruptcy law, neither the Reorganized Debtor nor any party to a transfer, assignment, exchange of any property (including the transfer of any debt or equity security, or the creation of a lien or security interest), or any other transaction contemplated by and/or implemented pursuant to the Plan or the Plan Documents, shall be liable for any stamp, mortgage, transfer, recording, documentary or intangible taxes or similar charges that otherwise would be payable to a governmental unit in connection with such transactions and the recordation of instruments in connection with such transactions, including such transfers and recordations as are necessary to effectuate the conveyance of the Specified Assets to the Liquidating Trust pursuant to the Plan or to effectuate, memorialize or publicly record the perfected Liens under the Wells Fargo Foothill Restated Credit Documents, the Restated Ableco Credit Documents, the Exit Financing Documents.

39. Permanent Injunctions. The permanent injunctions set forth in sections VI.A and VI.D of the Plan are reasonable, appropriate and necessary to carry out the objectives of the Plan and chapter 11 of the Bankruptcy Code, and should be approved. These provisions are not inconsistent with the applicable provisions of the Bankruptcy Code.

40. Estate Releases. The releases granted under the Plan by the Debtor and the Estate pursuant to Section VI.B of the Plan are being granted as part of comprehensive settlements and compromises that are embodied in and/or are being effectuated pursuant to the Plan. These releases are reasonable and appropriate, and should be approved. These provisions are not inconsistent with the applicable provisions of the Bankruptcy Code.

41. Exculpation. The exculpation provision contained in Section VI.C. of the Plan is reasonable and appropriate and should be approved. These provisions are not inconsistent with the applicable provisions of the Bankruptcy Code.

42. Other Releases. The release of non-debtor parties under sections II.C.4 and II.C.5 of the Plan, and under the various stipulations, settlements and compromises approved in connection

with the Plan are reasonable, appropriate and consensual. These provisions are voluntary and are not inconsistent with the applicable provisions of the Bankruptcy Code.

43. Assumption of Executory Contracts and Unexpired Leases. The decision to assume under the Plan the contracts and leases identified on the Schedule of Assumed Contracts and Leases represents the exercise of sound business judgment. Payment of the cure amounts listed on the Schedule of Assumed Contracts and Leases shall cure any and all defaults thereunder, compensate the non-debtor parties under such contracts and leases with respect to any and all pecuniary losses for any and all such defaults, and satisfy the prerequisites for assumption under Bankruptcy Code section 365. Other than payment of the amounts listed on the Schedule of Assumed Contracts, there are no other defaults existing under those contracts and leases. Adequate assurance of future performance under such contracts and leases following its reorganization pursuant to the Plan has been given by the Reorganized Debtor.

44. Rejection of Executory Contracts and Unexpired Leases. The Debtor has determined to reject under the Plan the contracts and leases identified on the schedule of Rejected Contracts, and all other contracts and leases that are not specifically listed on the Schedule of Assumed Contracts, except for any such contract or lease that already has assumed or rejected by prior order of the Court, or constitutes a Confidentiality Agreement. This determination is an exercise of the Debtor's sound business judgment and should be approved.

45. Oil and Gas Leases. Pursuant to the Oil and Gas Orders, it is not necessary for the Debtor to "assume" its oil and gas leases within the meaning of Bankruptcy Code section 365 in order to preserve them and vest them into the Reorganized Debtor, or, in the case of the Debtor's oil and gas leases constituting Specified Assets, it is not necessary to "assign" those assets within the meaning of Bankruptcy Code section 365 in order to transfer them to the Liquidating Trust.

46. Limitation on Scope of Findings. The findings of fact and conclusions of law herein shall not have any impact, direct or indirect, in any future litigation involving the Designated

Avoidance Actions. including, by reason of res judicata, collateral estoppel, or other issue preclusion.

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